

THOMAS R. RASK, III OSB No. 934031

trask@kelrun.com

JULIE PARRISH, OSB No. 233864

jparrish@kelrun.com

Kell, Alterman & Runstein, L.L.P.

520 SW Yamhill Street, Suite 600

Portland, OR 97204

Telephone: 503-222-3531

Fax: 503-227-2980

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

MICHAEL FIRESTONE and LINDSAY
BERSCHAUER, individually and as husband
and wife; KATERINA EYRE, an individual;
TAYLER HAYWARD, an individual; LISA
LEDSON, an individual, THOMAS REILLY,
an individual, and GERALD EARL
CUMMINGS, II, an individual,

Case No: 3:24-cv-01034-SI

**DECLARATION OF GERALD EARL
CUMMINGS, II**

Plaintiffs,

v.

JANET YELLEN, in her official capacity as the
Secretary of the United States Department of the
Treasury, UNITED STATES DEPARTMENT
OF THE TREASURY, and ANDREA GACKI,
in her official capacity as Acting Director of the
Financial Crimes Enforcement Network,

Defendants.

Declaration of Gerald Earl Cummings, II

KELL, ALTERMAN & RUNSTEIN, L.L.P.

ATTORNEYS AT LAW

520 SW YAMHILL, SUITE 600

PORTLAND, OR 97204

TELEPHONE (503) 222-3531

FACSIMILE (503) 227-2980

I, Gerald Earl Cummings, II, make the following declaration under penalty of perjury pursuant to the laws of the United States:

1. I am over the age of 18, am under no legal disability, and am competent to testify. If called as a witness, I would and could testify competently to the facts set forth in this declaration based on my personal knowledge.

2. I am the organizer, registered agent and member of two Oregon limited liability companies that are subject to the requirements of the Corporate Transparency Act (“CTA”) and for which there is no exemption I can claim eligibility. Within the meaning of the CTA, I am considered a beneficial owner of these companies.

3. My companies operate wholly in the state of Oregon.

4. Neither company is required to disclose the identities of its beneficial owners as a condition of registering to do business in Oregon.

5. As entities registered with the Oregon Secretary of State prior to January 1, 2024, my companies will be required to comply with the Corporate Transparency Act (“CTA”) and must file its beneficial ownership reports with the Financial Crimes Enforcement Network (“FinCEN”) no later than January 1, 2025.

6. I am a plaintiff in this litigation because I object to the CTA on the grounds it violates my constitutional rights, particularly my First and Fourth Amendment rights, and because it requires me to collect and gather beneficial ownership data that the State of Oregon does not require for me to operate my businesses in Oregon. As the owner of my companies, the CTA also requires me to collect this information from others who might be construed by the government as having beneficial ownership or substantial control over businesses.

7. I am a plaintiff in this litigation because I object to the CTA on the grounds that if I fail to collect the beneficial ownership information as required by the law and turn this information over to the government as compelled by the law, then I am subject to reprisals by the government in the form of uncapped and unlimited civil penalties, and separately, subject to

Page 1 – Declaration of Gerald Earl Cummings, II

criminal fines and imprisonment that is unreasonable in relation to the “crime” that has been perpetrated if I fail to cede my sensitive information and my constitutional rights to the Financial Crimes Enforcement Network of the U.S. Treasury.

8. I am a plaintiff in this litigation because I object to the CTA on the grounds that the law allows private sector entities access to my data in a disaggregated manner without my consent, in violation of my rights to privacy.

9. I am a plaintiff in this litigation because I object to the CTA on the grounds that my name, photo, and date of birth are not commercial in nature, and being compelled to give them over to the U.S. Treasury for the CTA’s stated purpose exceeds congressional authority and violates my civil rights.

10. My companies have not filed any beneficial ownership reports with the Financial Crimes Enforcement Network, and I do not intend to disclose the identities of my companies’ beneficial owners or those who could be classified as having substantial control (as defined by the CTA) absent a judicial declaration that it is required to comply with the CTA and its implementing regulations. This is because I object to the Act’s restrictions on my First Amendment rights, and its invasion of my private papers and effects that have historically been protected by the Fourth Amendment. I further object on the basis that CTA, by design, would require me to be subject to unlimited civil penalties and the threat of imprisonment if I do not give over to the government information for which the government has no legal authority to compel from citizens for the law’s stated purposes.

11. If forced to file reports with FinCEN, I would incur costs associated with compiling and reviewing records, including costs for legal services.

12. I urge a finding that the CTA is unconstitutional so that my individual freedoms to which I am guaranteed by the Constitution of the United States are preserved.

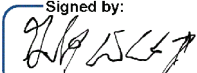
///

///

Page 2 – Declaration of Gerald Earl Cummings, II

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/15/2024

Signed by:

1CECDF7FF0F6498...

Gerald Earl Cummings, II